

Applicant : Veneta Hanson et al.
Serial No.: 10/676,691
Filed: September 30, 2003
Page 5

REMARKS

Claims 1, 2, 4-17, 19 and 20 are pending in the subject application. Applicant has herein cancelled claims 1, 2, 4-9, 11, 16 and 20 without prejudice or disclaimer to applicants' right to pursue the subject matter of these claims in the future. In addition, applicants have amended claims 10, 12, 13, 14 and 19. Support for the amendments to claim 10 can be found in the specification as originally filed, *inter alia*, at page 9, line 24 to page 10, line 2; page 12, lines 5-24 and lines 25-30; page 15, lines 3-5; and page 16, lines 3-11. Claims 12, 13 and 14 have been amended merely to correct their dependency from claim 10. Support for the amendments to claim 19 can be found in the specification as originally filed, *inter alia*, at page 9, line 24 to page 10, line 2; page 13, lines 12-18; page 14, lines 10-21 and lines 22-25; and page 16, lines 3-12. Applicants maintain that the amendments to the claims raise no issue of new matter. Accordingly, applicants respectfully request entry of this Amendment. After entry of this Amendment, claims 10, 12-15 and 19 will be pending and under examination.

Claims Rejected Under 35 U.S.C. §112 (First Paragraph)

In the November 28, 2006 Final Office Action the Examiner rejected claims 1, 2, 4-17, 19 and 20 under 35 U.S.C. §112 as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors at the time the application was filed had possession of the claimed invention. The Examiner stated that only the disclosed specific full-length enolase proteins that bind to the relevant autoantibodies, but not the full breadth of the claims as directed to enolase-comprising immunogenic fragments, meet the written description requirement.

Applicant : Veneta Hanson et al.
Serial No.: 10/676,691
Filed: September 30, 2003
Page 6

In response, applicants respectfully traverse the Examiner's rejection. However, in order to expedite prosecution, and without conceding the correctness of the Examiner's position, applicants have herein amended independent claims 10 and 19 to recite the disclosed specific full-length enolase proteins. Applicants note that the Examiner has indicated that the subject matter of claims as amended to be adequately described in the specification. In addition, applicants note that claims 1, 2, 4-9, 17 and 20 have been canceled hereinabove. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection.

The Examiner also rejected claims 1, 2, 4-17, 19 and 20 under 35 U.S.C. §112 as not enabled by the specification. The Examiner stated that only the disclosed specific full-length enolase proteins that bind to the relevant autoantibodies are enabled.

In response, applicants respectfully traverse the Examiner's rejection. However, in order to expedite prosecution, and without conceding the correctness of the Examiner's position, applicants have herein amended independent claims 10 and 19 to recite the disclosed specific full-length enolase proteins. Applicants note that the Examiner has indicated that such subject matter of the claims as amended to be enabled by the specification. In addition, applicants note that claims 1, 2, 4-9, 17 and 20 have been canceled hereinabove. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection.

Claims Rejected Under 35 U.S.C. §112 (Second Paragraph)

The Examiner rejected claims 1, 2 and 4-15 under 35 U.S.C. §112 (second paragraph) as being indefinite for failing to particularly point out and distinctly claim the subject matter

Applicant : Veneta Hanson et al.
Serial No.: 10/676,691
Filed: September 30, 2003
Page 7

which applicant regards as the invention.

With regard to the rejection of claims 1, 2 and 4-9, applicants note that these claims have been canceled hereinabove.

The Examiner stated that in claim 10 and those dependent thereon, "the" sample, subject and presence lack antecedent basis.

In response, applicants respectfully traverse the Examiner's rejection. However, in order to expedite prosecution, and without conceding the correctness of the Examiner's position, applicants have herein amended claim 10 to correct the antecedent language. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection.

Claims Rejected Under 35 U.S.C. §102(b)

The Examiner rejected claims 1, 2, 4-17, 19 and 20 under 35 U.S.C. §102(b) as allegedly anticipated by Hanson et al. (J. Exp. Med. 176:565 (1992)) for reasons of record.

In response, applicants respectfully traverse the Examiner's rejection. However, in order to expedite prosecution, and without conceding the correctness of the Examiner's position, applicants have hereinabove canceled claims 1, 2, 4-9, 17 and 21 without disclaimer or prejudice to applicants' right to pursue the subject matter of these claims in the future.

Hanson et al. disclose the use of a western blot to detect an unidentified 50kD brain protein. Hanson et al. do not disclose that the 50kD brain protein is gamma enolase. Hanson et al. also fail to disclose any second antibody, and especially not a second antibody having a detectable marker bound thereto, wherein the second antibody binds to the autoantibody.

Applicant : Veneta Hanson et al.
Serial No.: 10/676,691
Filed: September 30, 2003
Page 8

Claim 10, as amended, recites "contacting the autoantibody bound to the solid support with a second antibody having a detectable marker bound thereto", wherein the second antibody binds to the autoantibody. The presence of the autoantibody which is bound to the gamma enolase which is bound to the solid support is determined by detecting the detectable marker bound to the second antibody. Applicants maintain that such a method is not taught in Hanson et al. As stated above, Hanson et al. does not disclose any such second antibody. In addition, Hanson et al. do not disclose the autoantigen gamma enolase as recited in claim 10.

Claim 19, as amended, recites "a second antibody having a detectable marker bound thereto which binds to the autoantibody". Applicants maintain that Hanson et al. do not disclose all components of the claimed kit. As stated above, Hanson et al. do not disclose any such second antibody or the identity of the specific autoantigen, namely gamma enolase, as recited in claim 19.

For the reasons above, applicants maintain that the publication of Hanson et al. does not anticipate the invention as recited in amended claims 10 and 19, and claims dependent thereon. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection.

Summary

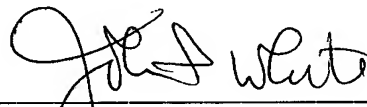
In view of the amendments and remarks made herein, applicants maintain that claims 10, 12-15 and 19 as amended are now in condition for allowance.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

Applicant : Veneta Hanson et al.
Serial No.: 10/676,691
Filed: September 30, 2003
Page 9

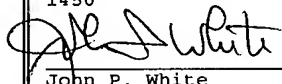
No fee, other than the enclosed \$60.00 fee for a one-month extension of time, is deemed necessary in connection with the filing of this Amendment. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



John P. White
Registration No. 28,678
Attorney for Applicants
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, New York 10036
(212) 278-0400

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

 3/28/07
John P. White Date
Reg. No. 28,678